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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,682	10/27/2003	Joseph Wittemer	ATM-2360	2063
217	7590	03/08/2006	EXAMINER	
FISHER, CHRISTEN & SABOL 1725 K STREET, N.W. SUITE 1108 WASHINGTON, DC 20006			GEHMAN, BRYON P	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/692,682

Applicant(s)

WITTEMER, JOSEPH

Examiner

Bryon P. Gehman

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-9 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/27/03</u> . | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3728

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the claimed embodiments of a single cover film web with the packaging bag and a folded packaging bag and manner of folding in the web feed direction must be shown or the feature(s) canceled from the claim(s). **No new matter should be entered.**

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 250 words. It is important that the abstract not exceed 250 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because in line 3, "and/or" is alternatively indefinite as to its meaning and the entire phrase should be ---at least one of the front wall and the rear wall...". Correction is required. See MPEP § 608.01(b).

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, lines 4 and 7, "and/or" is alternatively indefinite as to its meaning and the entire phrase should be --at least one of the front wall and the rear wall...". See also claims 5-7, line 5 of each. In line 10, the "or" clause should be similarly modified. See also claims 5-7, line 9 of each.

In each of claims 5-7, line 11 of each, "one or two-sided printing" is alternatively indefinite and should be --one of one or two-sided printing--.

In claim 7, line 18, "in the web feed direction" lacks antecedent basis.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1 and 3 are rejected under 35 U.S.C. 102(e) as being anticipated by Knoerzer et al. (6,746,743). Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Pagano (Figures 1A or 4) (5,692,834). Claims 1-2 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Counts et al. (5,341,930). Each

Art Unit: 3728

discloses a packaging bag (Figures 3 and 4; 10; 10; respectively) with a front wall and a rear wall in which the front wall and rear wall are bonded together along a peripheral edge (at the shown top and bottom edges; at 14 and 16 or 50; edges of 12 and 14) and at least one of the front wall and rear wall is printed on the outside of the bag (see column 5, lines 6-24; 31; 20), at least one of the front wall and rear wall bonded to a cover film (70, see column 5, line 6 through column 7, line 14; 24; 16) which is printed on one or both sides, substantially the entire area of the cover film being bonded to and peelable from the at least one of the front wall and rear wall.

As to claims 2 and 4, Counts et al. disclose the front wall of a first packaging film (14) and the rear wall of a second packaging film (12), at least one of the packaging films bonded to a cover film (16), the cover film being permanently bonded at one edge area (see column 6, lines 39-47).

As to claim 3, Knoerzer et al. and Pagano disclose the front wall and the rear wall are of the same packaging film.

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pagano in view of Kaufmann (5,264,265). Kaufmann discloses providing a label with one edge

permanently sealed to a container. To modify the packaging bag of Pagano employing the permanent seal of Kaufmann would have been obvious in order to maintain the label secured to the container to maintain their association and common usage together.

10. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knoerzer et al. in view of Peterson (3,373,045). Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pagano in view of Peterson. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Counts et al. in view of Peterson. Knoerzer et al., Pagano and Counts et al. each has been described above with respect to the structure. Each further discloses one of one or two-sided printing of a cover film web (70; 24; 16), joining the cover film web to the printed side (shown front of 50 and described at column 5, lines 6-24; at 31; 14) of a first packaging film web by a peelable adhesive, as in Knoerzer et al. and Pagano, or by release of friction therebetween, as in Counts et al., and joining and bonding the first packaging film web to a second packaging film web (via the disclosed top and bottom heat seals; at seals 14 and 16; described joining of 12 to 14 and 14 to 16, in no particular order, see column 6, lines 9-15 and 39-47). Peterson discloses joining a label to a bag employing a coated plastic pressure sensitive adhesive (see column 2, lines 32-48 and line 67 through column 3, line 4). To modify the joining of the cover film web to the packaging film web employing a plastic coated adhesive would have been an obvious substitution of peelable adhesive joining means already recognized in the field, as evidenced by Peterson.

As to claims 6 and 7, to provide a duplication of the cover film webs as set forth in claim 6, and to provide the packaging bag by folding would comprise manners of modifying the basic structure disclosed by any one of Knoerzer et al., Pagano and Counts et al. in view of Peterson and would not comprise any new and unexpected over the basic structure of any one of Knoerzer et al., Pagano and Counts et al. in view of Peterson.

11. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims 5-7 above, and further in view of Kaufmann ("265).

Kaufmann discloses employing a permanent adhesive in conjunction with a releasable adhesive with a label. To modify the process of providing the packaging bag employing a combination of permanent and releasable adhesives would have been obvious in view of Kaufmann in order to maintain the label secured to the container to maintain their association and common usage together.

12. This application contains claims directed to the following patentably distinct species of the claimed invention:

- I. Claims 1-5 and 8-9, drawn to a first packaging bag and generic method of making the bag.
- II. Claims 1-4, 6 and 8-9, drawn to a second packaging bag and particular method of making the bag incorporating two cover film webs.

- III. Claims 1-4 and 7-9, drawn to a third packaging bag and particular method of making the bag incorporating folding of the packaging film web.

13. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, independent claims 1 and 5 are held to be generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over

the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shown are labels and indicia disposed on packaging bags.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (571) 272-4555. The examiner can normally be reached on Monday through Wednesday from 5:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/692,682
Art Unit: 3728

Page 9

A handwritten signature in black ink, appearing to read "Bryon P. Gehman". The signature is fluid and cursive, with the first name "Bryon" being more prominent.

Bryon P. Gehman
Primary Examiner
Art Unit 3728

BPG